



STATE BOARD OF EQUALIZATION

November 24, 1969

Mr. D--- R. L---
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Dear Mr. L---:

Your letter of October 18, 1969, addressed to the State Franchise Tax Board has been referred to us for reply because the State Board of Equalization administers the Sales and Use Tax Law.

Your letter concerns the application of the tax in a transaction in which you received a "free" bar of soap in exchange for a coupon at a grocery store. You question whether the tax should have been collected from you and whether such tax reimbursement was remitted to the state.

We appreciate your concern in the matter of proper tax application.

The sales tax is imposed upon the retailer for the privilege of making sales at retail in this state. The law defines a sale as the transfer of title or possession of tangible personal property for a consideration.

The coupon which you exchanged for the bar of soap constituted a consideration to the grocer for the merchandise and as such, the transaction was a "sale" and not a "gift" of the soap to you by the grocer. Coupons of the type mentioned by you generally are issued by the manufacturer of the soap and distributed to consumers who may exchange them for the manufacturer's product. The grocer who "redeems" the coupon is reimbursed by the manufacturer for the value of the soap given away. In this way the grocer is receiving a consideration for the soap and is making a "sale" to which the sales tax applies. The law permits the retailer to reimburse himself from the consumer for the tax imposed upon the sale.

The penny tax on the sale of the bar of soap to you, therefore, would not appear to be an improper application since grocery stores must pay the tax on their sales of taxable items which include soap and soap products.

Retailers are audited by the board of equalization to ascertain that the proper tax has been remitted to the state. You can be assured that any improper tax reporting will be corrected during the course of our statewide audit program.

The discourteous conduct of the store clerk, while regrettable, is a matter over which the board has no authority, but which lies in the province of the store management.

We hope that the above discussion will assist you in the understanding of the application of tax to the transaction described in your letter.

Very truly yours,

T. P. Putnam
Tax Counsel

BY _____
Joseph Manarolla

JM:smb